



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/712,241

11/13/2003

Sachin Govind Deshpande

10237.27

9479

65400

7590

07/17/2008

KIRTON & MCCONKIE

1800 EAGLE GATE TOWER / 60 EAST SOUTH TEMPLE

P.O. BOX 45120

SALT LAKE CITY, UT 84145-0120

EXAMINER

SCHNURR, JOHN R

ART UNIT

PAPER NUMBER

2623

MAIL DATE

DELIVERY MODE

07/17/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/712,241	Applicant(s) DESHPANDE ET AL.	
	Examiner JOHN R. SCHNURR	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is in response to the Amendment after Non-Final Rejection filed 12/20/2007. Claims 1-42 are pending and have been examined.

Response to Arguments

2. Applicant's arguments with respect to claims 1-42 have been considered but are moot in view of the new ground(s) of rejection.

Although a new ground of rejection has been used to address limitations that have been added to claims 1, 18 and 28 a response is considered necessary for several of applicant's arguments since reference Jerding (US PG PUB 2002/0104097) will continue to be used to meet several claimed limitations.

In response to applicant's argument (Remarks pg. 17) that Jerding fails to teach notifying a client device in "real-time" of any changes to the applications, the examiner respectfully disagrees. Jerding teaches when an application is updated on an application server a service table is updated and transmitted to the DHCTs (Fig. 3 [0071]).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2623

4. Claims **1-5, 7-21 and 23-42** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Palevich et al. (US Patent 6,889,256)**, herein Palevich, in view of **Jerding et al. (US Patent Application Publication 2002/0104097)**, herein Jerding.

Consider **claim 1**, Palevich clearly teaches a networked system that includes a client and a server, a method for dynamically obtaining at least a portion of an application from the server over a network, **(Fig. 1)** the method comprising:

determining, at a local client device, that at least a portion of an application is needed at the local client device, **(Fig. 5: A file open request is sent from the local client, column 11 lines 43-46.)** wherein the portion is located at a remote server device; **(Fig. 3: Image file 32 is located at a remote server and contains application 126, column 8 lines 4-6.)**

using a file system protocol **(column 5 lines 8-11)** to dynamically obtain the portion from the remote server device, **(Application 126 may be streamed from the server to the client, column 8 lines 4-12.)** wherein the portion is obtained so as to be transparent to a user and as needed by the local client device; **(Large applications are streamed to the client such that the entire set of application files need not be present, column 7 lines 43-51.)**

However, Palevich does not explicitly teach monitoring, at the remote server device, a location of the remote server device for changes to applications, removals of applications, and additions of new applications; and notifying the client device, in real time, of any changes, removals, and additions detected during monitoring.

In an analogous art, Jerding, which discloses a system for transmitting applications to a set top box from a server, clearly teaches monitoring, at the remote server device, a location of the remote server device for changes to applications, removals of applications, and additions of new applications; and notifying the client device, in real time, of any changes, removals, and additions detected during monitoring. **(Fig. 3: A most current version of each application currently available on the BFS 55 is maintained in service database 40. When an application is updated in the server 51 the database 40 is updated and the current version tables are transmitted to the DHCT, [0071].)**

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to modify the system of Palevich by monitoring,

at the remote server device, a location of the remote server device for changes to applications, removals of applications, and additions of new applications; and notifying the client device, in real time, of any changes, removals, and additions detected during monitoring, as taught by Jerding, for the benefit of ensuring the client always receives up-to-date applications (see [0009] Jerding).

Consider **Claim 2**, Palevich combined with Jerding, as in claim 1, clearly teaches the local client device is a television. **(Fig. 1 Television 22 Palevich)**

Consider **Claim 3**, Palevich combined with Jerding, as in claim 1, clearly teaches the local client device is an Aquos TV. **(Fig. 1 Television 22 Palevich)**

Consider **Claim 4**, Palevich combined with Jerding, as in claim 1, clearly teaches using the file system protocol to dynamically obtain the portion from the remote server device **(column 5 lines 8-11 Palevich)** comprises using an internet file system protocol. **(Fig. 1 HTTP server 34, column 3 lines 60-65 Palevich)**

Consider **Claim 5**, Palevich combined with Jerding, as in claim 1, clearly teaches using the file system protocol to dynamically obtain the portion from the remote server device comprises using a network file system (NFS) protocol. **(column 5 lines 8-11 Palevich)**

Consider **Claim 7**, Palevich combined with Jerding, as in claim 1, clearly teaches using the file system protocol to dynamically obtain the portion from the remote server device is initiated at the local client device. **(Fig. 5: A file open request is sent from the local client, column 11 lines 43-46. Palevich)**

Consider **Claim 8**, Palevich combined with Jerding, as in claim 1, clearly teaches using the file system protocol to dynamically obtain at least another portion of the application from another remote server device. **(The invention is practiced in a distributed computer environment, column 3 lines 9-12, wherein multiple HTTP connections may be made, column 13 lines 35-41. Palevich)**

Consider **Claim 9**, Palevich combined with Jerding, as in claim 1, clearly teaches using the file system protocol to dynamically obtain at least a portion of another application from another remote server device. **(The invention is practiced in a distributed computer environment, column 3 lines 9-12, wherein multiple HTTP connections may be made, column 13 lines 35-41. Palevich)**

Consider **claim 10**, Palevich combined with Jerding, as in claim 1, clearly teaches determining that at least a portion of an application is needed at the local client device **(Fig. 5: A file open request is sent from the local client, column 11 lines 43-46. Palevich)** sending an event from the remote server device to the local client device to indicate an availability of the application. **(Fig. 8: In step**

121 the server transmits the available applications to the DHCT, [0071] Jerding.)

Consider **claim 11**, Palevich combined with Jerding, as in claim 1, clearly teaches the application is a new application. **(New versions of the applications are transmitted, [0071] Jerding.)**

Consider **claim 12**, Palevich combined with Jerding, as in claim 1, clearly teaches using the file system protocol to dynamically obtain the portion from the remote server device **(Application 126 may be streamed from the server to the client, column 8 lines 4-12 Palevich.)** is initiated at the local client device after receiving the event from the remote server device about the availability of the new application. **(The application is activated upon subscriber command after receiving the list, [0071] Jerding.)**

Consider **Claim 14**, Palevich clearly teaches the user input is received by the local client device from a remote control device. **(Fig. 1 User input device 28 Palevich)**

Consider **claim 13**, Palevich clearly teaches using the file system protocol to dynamically obtain the portion from the remote server device. **(Application 126 may be streamed from the server to the client, column 8 lines 4-12 Palevich.)**

However, Palevich does not explicitly teach the application is initiated at the local client device after receiving input from a user.

In an analogous art Jerding, which discloses a system for transmitting applications to a set top box from a server, clearly teaches the application is initiated at the local client device after receiving input from a user. **([0043])**

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to modify the system of Palevich by initiating the application at the local client device after receiving input from a user, as taught by Jerding, for the benefit of providing a framework from which the user may access applications (see [0029] Jerding).

Consider **claim 15**, Palevich combined with Jerding, as in claim 1, clearly teaches the application is a new application, **(New versions of the applications are transmitted, [0071] Jerding.)** and wherein the method further comprises monitoring a location on the remote server device to determine whether the new application is available. **(Fig. 5: In step 73 the server is monitored to determine if the application version is up-to-date, [0044] Jerding.)**

Art Unit: 2623

Consider **claim 16**, Palevich combined with Jerding, as in claim 1, clearly teaches sending an event from the remote server device to the local client device to indicate at least one of (i) a removal of a first application; and (ii) a modification to a particular application. **([0071] Jerding)**

Consider **claim 17**, Palevich combined with Jerding, as in claim 1, clearly teaches monitoring a location on the remote server device to determine at least one of: (i) whether a first application is removed; and (ii) whether a particular application is modified. **([0044] Jerding)**

Consider **Claim 18**, Palevich clearly teaches a networked system comprising:

a client, wherein the client includes a television that provides programming content; **(Fig. 1: STB 20 is connected to television 22, column 3 lines 15-18.)**

a server coupled to the client via a network, wherein the server includes a shared directory having an application remotely preserved for the client; **(Fig. 3: HTTP server 34 stores image file 32, column 8 lines 4-6.)**

a file system protocol employed by the client and the server to allow the client to obtain at least a portion of the application remotely preserved for the client **(column 5 lines 8-11)** on an as-needed basis. **(Application 126 may be streamed from the server to the client, column 8 lines 4-12.)**

However, Palevich does not explicitly teach the server comprises a monitoring thread monitoring the shared directory for changes to the application, removal of the application, and additions of additional applications, wherein the monitoring thread notifies the client, in real time, of any changes, removals, or additions detected during monitoring.

In an analogous art, Jerding, which discloses a system for transmitting applications to a set top box from a server, clearly teaches the server comprises a monitoring thread monitoring the shared directory for changes to the application, removal of the application, and additions of additional applications, wherein the monitoring thread notifies the client, in real time, of any changes, removals, or additions detected during monitoring. **(Fig. 3: A most current version of each application currently available on the BFS 55 is maintained in service database 40. When an application is updated in the server 51 the database 40 is updated and the current version tables are transmitted to the DHCT, [0071].)**

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to modify the system of Palevich by the server comprising a monitoring thread monitoring the shared directory for changes to the application, removal of the application, and additions of additional applications, wherein the monitoring thread notifies the client, in real time, of any changes, removals, or additions detected during monitoring, as taught by Jerding, for the benefit of ensuring the client always receives up-to-date applications (see [0009] Jerding).

Consider **Claim 19**, see claim 3.

Consider **Claim 20**, see claim 4.

Consider **Claim 21**, see claim 5.

Consider **Claim 23**, see claim 8.

Consider **Claim 24**, see claim 9.

Consider **Claim 25**, see claim 10.

Consider **Claim 26**, see claim 11.

Consider **Claim 27**, see claim 15.

Consider **Claim 28**, Palevich clearly teaches a computer program product for implementing within a networked system a method for dynamically obtaining at least a portion of an application from a server over a network, **(Fig. 1)** the computer program product comprising:

a computer readable medium for providing computer program code means utilized to implement the method, **(column 2 lines 59-61)** wherein the computer program code means is comprised of executable code for:

determining, at a local client computer device, that at least a portion of an application is needed at the local client computer device, , **(Fig. 5: A file open request is sent from the local client, column 11 lines 43-46.)** wherein the portion is located at a remote server computer device; **(Fig. 3: Image file 32 is located at a remote server and contains application 126, column 8 lines 4-6.)**

using a file system protocol **(column 5 lines 8-11)** to dynamically obtain the portion from the remote server computer device, **(Application 126 may be streamed from the server to the client, column 8 lines 4-12.)**

wherein the portion is obtained so as to be transparent to the user and as needed by the local client computer device. **(Large applications are streamed to the client such that the entire set of application files need not be present, column 7 lines 43-51.)**

However, Palevich does not explicitly teach monitoring, at the remote server computer device, a location of the remote server device for channels to applications, removals of applications, and additions of new applications; and notifying the client computer device, in real time, of any changes, removals, and additions detected during monitoring.

In an analogous art, Jerding, which discloses a system for transmitting applications to a set top box from a server, clearly teaches monitoring, at the remote server computer device, a location of the remote server device for channels to applications, removals of applications, and additions of new applications; and notifying the client computer device, in real time, of any changes, removals, and additions detected during monitoring. **(Fig. 3: A most current version of each application currently available on the BFS 55 is maintained in service database 40. When an application is updated in the server 51 the database 40 is updated and the current version tables are transmitted to the DHCT, [0071].)**

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to modify the system of Palevich by monitoring, at the remote server computer device, a location of the remote server device for changes to applications, removals of applications, and additions of new applications; and notifying the client device, in real time, of any changes, removals, and additions detected during monitoring, as taught by Jerding, for the benefit of ensuring the client always receives up-to-date applications (see [0009] Jerding).

Consider **Claim 29**, see claim 2.

Consider **Claim 30**, see claim 3.

Consider **Claim 31**, see claims 4 and 5.

Consider **Claim 32**, see claim 7.

Consider **Claim 33**, see claim 8.

Consider **Claim 34**, see claim 9.

Consider **Claim 35**, see claim 10.

Consider **Claim 36**, see claim 11.

Consider **Claim 37**, see claim 12.

Consider **Claim 38**, see claim 13.

Consider **Claim 39**, see claim 14.

Consider **Claim 40**, see claim 15.

Consider **Claim 41**, see claim 16.

Consider **Claim 42**, see claim 17.

5. Claims **6 and 22** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Palevich et al. (US Patent 6,889,256)** in view of **Jerding et al. (US Patent Application Publication 2002/0104097)**, as in claims 1 and 15, further in view of **Chan et al. (US Patent Application Publication 2003/0009668)**, herein Chan.

Consider **claim 6**, Palevich combined with Jerding, as in claim 1, clearly teaches the step for using the file system protocol to dynamically obtain the portion from the remote server device. **(column 5 lines 8-11)**

However, Palevich combined with Jerding, as in claim 1, does not explicitly teach using a common internet file system (CIFS) protocol.

In an analogous art Chan, which discloses a system for streaming data, clearly teaches using a common internet file system (CIFS) protocol. **[[0021]]**

Therefore, at the time the invention was made, because both references teach methods of streaming data over a network it would have been obvious to one with ordinary skill in the art to substitute into the system of Palevich combined with Jerding a common internet file system (CIFS) protocol, as taught by Chan, to achieve the predictable result of transferring data over a network.

Consider **Claim 22**, see claim 6.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN R. SCHNURR whose telephone number is (571)270-1458. The examiner can normally be reached on Monday - Friday, 8:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JRS

/Christopher Grant/
Supervisory Patent Examiner, Art Unit 2623